

REMARKS

Claims 1-6, 8-19 and 21-38 were cancelled without prejudice in the previously submitted Amendment. Claim 39 is pending in the application. Claims 40-59 are added to the application. Now new matter has been added by the new claims. Support for the claims may be found in the specification and drawings of the filed application. Reconsideration and allowance of Claims 39-59 is respectfully requested in view of the following remarks.

Rejection under 35 U.S.C. 103(a)

Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Walker*, et al. (U.S. Patent No. 8,345,090) in view of *Abelow* (U.S. Patent No. 5,999,908).

Walker teaches a conditional purchase offer management system for telephone calls. The system and method of *Walker* corresponds to the Priceline method of purchasing services based on a conditional purchase offer which includes a specified price that is either accepted or rejected (See Assignee on cover page). The system and method of *Walker* differs from Applicants' invention in numerous ways.

Applicants' invention claims "receiving a request for purchasing at least one telecommunication service at a server, the request being associated with a buyer." A conditional purchase offer as cited by *Walker*, is not a request. A CPO is defined by *Walker* as "a binding offer containing one or more conditions, submitted by a calling party 110 for the completion of one or more telephone calls, typically at a price defined by the calling party." (*Walker*, col. 4, lines 53-56, emphasis added). A request for purchasing as claimed by Applicants and a CPO or binding offer as cited by *Walker* are not the same. As a result, the receiving a request portion of Claim 39 is not taught, suggested, or disclosed by *Walker*.

Furthermore, Applicants claim "generating an offer to provide the at least one telecommunication service to the buyer in response to receiving the request and the information, the offer being associated with a provider of telecommunication services." *Walker* teaches that a calling party submits a CPO, that CPO is either accepted or rejected by inter-exchange carriers (FIGs. 81, 86, Steps 835, 840, 845). The carrier in *Walker* either accepts or rejects the CPO, but

there is not an offer generated that is associated with a provider of telecommunication services. In *Walker*, an offer is not made in response to receiving a request as claimed by Applicants. In *Walker*, the CPO is either accepted or rejected by the carrier.

Applicants also claim "receiving a response to the offer, wherein the response is associated with the buyer." As previously stated, *Walker* does not teach a response associated with the buyer. The response of *Walker* is associated with acceptance or rejection by the carrier of the CPO.

Walker does not teach "notifying the provider of the response and an identity of the buyer" as claimed by Applicants. In *Walker*, the provider is not notified of the response as claimed by Applicants because the carrier responds to the CPO.

Summarizing, the method taught, suggested, and disclosed by *Walker* is focused on a conditional purchase offer method between a calling party and an inter-exchange carrier that is completely different than the method claimed by Applicants as explained above.

Applicants further claim, "receiving information from the buyer regarding prior use of telecommunication services of the buyer; generating an offer to provide the at least one telecommunication service to the buyer in response to receiving the request and the information...." The Examiner combines *Walker* and *Abelow* to form an argument of obviousness for this aspect of Claim 39.

The Examiner has not presented a prima facie case for obviousness under 35 U.S.C. §103(a) which specifies that:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title [35 USC § 102], if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

(emphasis added)

There is no apparent reason, teaching, suggestion, or motivation to combine *Walker* and *Abelow*. The Examiner has improperly used hindsight to combine *Walker* and *Abelow*. The subject matter of *Walker* and *Abelow* use completely different systems, as a result, the combination of the references for an obviousness rejection is improper. *Abelow* is directed toward a method of integrating vendor and customer feedback for developing products and services using computers. (*Abelow*, col. 8, lines 5-14). In particular, *Abelow* does not teach a purchasing system. In other words, there is no apparent reason to combine *Walker* and *Abelow* based on the subject matter and applicable fields.

Abelow teaches a customer-based product design module that functions based on user feedback. User feedback is not prior use information; however, even if the user feedback and prior use information were assumed to be the same, the user feedback is not used in a purchasing system in any manner, much less to generate an offer as claimed in Claim 39. The feedback in *Abelow* is specifically directed toward designing and altering products and services. (*Abelow*, col. 8, lines 8-49). Various examples explain how the method of claim 39 may be used. In a first example, based on the amount or type of telecommunications services a purchaser has utilized in the past, different offers may be presented. For example, if the user uses a large quantity of minutes, a specific service plan may be offered. If the user has previously used a lot of data services, another service plan may be offered. If the user is a high volume user, a lower price may be offered to attract the user. *Abelow* does not disclose, teach, or suggest receiving prior use information or using prior use information to generate an offer to provide telecommunication services in response to receiving a request. There is no apparent reason to combine the two references to reach the claimed subject matter.

Additionally, the references cited from *Abelow* included in the Office Action dated 02/05/2007 do not teach, suggest, or disclose telecommunication services. (*Abelow*, col. 12, lines 5-20). A wireless mobile electronic device and hand-held cellular telephones are products as cited by *Abelow*, but are not telecommunication services.

For at least these reasons, *Walker* and *Abelow* do not disclose, teach, and suggest an explicit rationale for combining references to make obvious the unique combination recited by

Claim 39 nor is there any apparent reason to do so. Reconsideration and favorable action are respectfully requested.

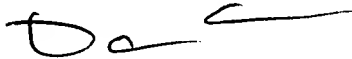
CONCLUSION

For the foregoing reasons, and for other apparent reasons, Applicants respectfully request reconsideration and favorable action. If the Examiner feels a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

Applicants believe that no fees other than the fees submitted herewith are due. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-2816 under Order No. 020748.0103PTUS (formerly 07710.0001-0) from which the undersigned is authorized to draw.

Respectfully submitted,

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